

City Attorney
Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco CA 94102
cc: Sunshine Ordinance Task Force
sent via email to Task Force, email to City Attorney

Our ref.
SOTF 19044

Date
2019-05-17

RE: SF Sunshine Ordinance Complaint 19044, Anonymous v. Dennis Herrera, Elizabeth Coolbrith

To the City Attorney and Sunshine Ordinance Task Force:

NOTE: Every response you send or provide (including all responsive records) may be automatically and immediately visible to the general public on the MuckRock.com web service used to issue this request. (I am not a representative of MuckRock)

On May 17, 2019 I received an additional email (Exhibit A) from Ms. Coolbrith on behalf of the City Attorney: (i) disclosing additional portions of one of the records (Exhibit B) responsive to my request (Exhibit C), (ii) justifying withholding the redacted portions per Cal. Evid. Code section 1040, (iii) stating in part that:

Also, please note that while we have agreed to produce some metadata excerpts in this instance, we reserve our right to revisit this approach in the future. Generally we do not disclose metadata at all, for the reasons stated to you in our prior responses.

and (iv) requesting I withdraw my Task Force complaint¹ and my parallel petition to the Supervisor of Records.² I am replying both to the City Attorney's office and also forwarding this response to the Task Force for their files and consideration.

¹https://cdn.muckrock.com/outbound_request_attachments/Anonymous_2859385/72056/San-Francisco-Sunshine-Ordinance-Appeal-Request-72056.pdf

²https://cdn.muckrock.com/outbound_request_attachments/Anonymous_2859385/72056/SF-Sunshine-Ordinance-Supervisor-of-Records-Petition-72056-a.pdf

While I appreciate the additional, partial, disclosure to my request, I unfortunately cannot withdraw my complaint and petition for at least the following reasons:

1. In prior cases,³ the Task Force has, notwithstanding additional disclosures by the respondent agency, formally decided that prior actions/disclosures of the agency did in fact violate the Sunshine Ordinance/CPRA. While I believe the current disclosure is still deficient relative to the standards of the Sunshine Ordinance and the CPRA (see below), even if the Task Force determines that the May 17 disclosure does in fact meet all legal requirements, **I ask that the Task Force still rule that the May 8 and April 24 responses of the City Attorney violated one or more of SF Admin Code 67.27, 67.26, 67.21, and/or Govt Code 6253.9, 6253, 6255** as discussed in my initial Task Force complaint. This is especially important because the City Attorney has stated explicitly that they reserve their right to revisit the production of even the partial metadata excerpts they provided in their May 17 response, and appear to have a general policy of not disclosing email headers/metadata.
2. The May 17 response continues to not be disclosed in the **original electronic format** as requested. This should be easy to do via export of the message (in for example .msg format) using the Microsoft Exchange/Outlook systems the City Attorney's office appears to use (or from other similar mechanisms of other widely used e-mail systems, like the "Show Original" feature of a Google Apps e-mail system). Anecdotally, I have requested email public records from many other California public agencies under the CPRA and have in-fact received disclosure of .msg format e-mails, regardless of the even stricter requirements of the SF Sunshine Ordinance in particular.
3. Even if the disclosure in PDF format is acceptable under the law, the May 17 response **fails to disclose one or more headers** that I believe are part of the full A3/A4 record responsive to my requests. You will notice in Exhibit B that for headers that are redacted both the name and value are redacted. Since the City Attorney must minimize its withholding to only those parts of the record explicitly excluded from disclosure, I believe the Task Force should direct the City Attorney to: (a) disclose all header *names* regardless of whether the *values* of those headers are exempt under Evid. Code section 1040 (or otherwise), and (b) disclose the values of one or more of the following headers since I do not believe they are all in fact exempt: Cc, Bcc, X-Envelope-From, Thread-Topic, Thread-Index, Sender, References, In-Reply-To, X-Originatororg, Delivered-To, X-Forwarded-To, X-Forwarded-For
4. The May 17 response **fails to disclose any additional headers or metadata of the email record responsive to request A5/A6** (it only includes additional info for A3/A4⁴). Since I believe the record responsive to A3/A4 is in fact an email sent by Coolbrith herself, it should be easy to export this email. At the very least, as paragraph 2 of section C2 of the original complaint states, the actual email addresses of the 'From' and 'Sender', not just names, should be disclosed. Moreover, Outlook/Exchange should have one or more of the: Date, Sender, Message-Id, To, From, Subject, Mime-Version, Content-Type, Return-Path, Cc, Bcc, X-Envelope-From, Thread-Topic, Thread-Index, Sender, References, In-Reply-To, X-

³Examples: Ann Treboux v. Kate Patterson and the Arts Commission (17001), Ann Treboux v. Margaret Baumgartner and the Office of the City Attorney (17023)

⁴I accept the City Attorney's determination that it does not have records responsive to A1/A2, and do not request any further action from the City Attorney or Task Force on A1/A2. Request B was satisfactorily handled previously.

Originatororg, Delivered-To, X-Forwarded-To, X-Forwarded-For headers that can and should be exported.

Vindicating the right of the public under the Sunshine Ordinance/CPRA to receive emails in their full, original electronic format, with minimal withholding (including disclosure of all headers and metadata not explicitly exempted from disclosure by the Sunshine Ordinance), and with all withholding justified, is a goal of this complaint. It is important that the Task Force re-inforces that this is required of San Francisco agencies.

Furthermore, I hope the City Attorney will, after a decision from the Task Force, prepare an official opinion that carefully considers all the various e-mail headers and metadata (in good-faith consultation with information technology security experts) and promulgate a minimal set of headers that must be exempted from disclosure under the law which can be applied uniformly by San Francisco agencies, and thus fulfill the office's responsibility to advocate on behalf of the public's right to know all non-exempt portions of emails regarding the public's business.

However, I am also willing to compromise with the City Attorney in the following way:

1. the City Attorney publishes an opinion that in its independent legal judgment, and in good-faith consultation with information technology security experts, that all e-mail header names are non-exempt and at least the following e-mail header values (in addition to body, attachments and inline images) [Date, Sender, Message-Id, To, From, Subject, Mime-Version, Content-Type, Return-Path, Cc, Bcc, X-Envelope-From, Thread-Topic, Thread-Index, Sender, References, In-Reply-To, X-Originatororg, Delivered-To, X-Forwarded-To, X-Forwarded-For] are in fact not automatically exempt from disclosure (unless the specific content is exempt); and
2. I withdraw my complaint to the Task Force and petition to the Supervisor of Records.

However, I do not know whether such a compromise coupled with a withdrawal from the Task Force is permitted by relevant policies and laws or would be something the City Attorney and Task Force would like to consider.

If instead the City Attorney only finishes further disclosure of A3/A4/A5/A6, I currently intend to maintain my complaint to the Task Force so they can determine that May 17 and prior disclosures were in fact insufficient.

Thank you.

encl: Exhibit A – May 17, 2019 Email from Coolbrith

encl: Exhibit B – May 17, 2019 Disclosed Record entitled “4-18-19 Email Received_Redacted.pdf”

encl: Exhibit C – My original April 20, 2019 request

Exhibit A – May 17, 2019 Email from Coolbrith

Subject: RE: California Public Records Act Request: Immediate Disclosure Request - Email Record Full Information

Dear Sir/Madam,

We have investigated your request further and have conducted a reasonable and diligent search and are able to supplement our production with the attached PDF. The PDF shows the headers and metadata associated with the email responsive to your request #s A3/A4. We have redacted some of the metadata based on the need to protect the security of our computer system. See Cal. Evid. Code section 1040. Also, please note that while we have agreed to produce some metadata excerpts in this instance, we reserve our right to revisit this approach in the future. Generally we do not disclose metadata at all, for the reasons stated to you in our prior responses.

Unfortunately, we were not able to locate headers/metadata for the emails responsive to your request #s A1/A2 and A5/A6. We have conducted a reasonable and diligent search for the information you asked for, but could not locate anything further.

As we have now complied with your request, we would respectfully ask that you withdraw your complaint to the Sunshine Ordinance Task Force as well as your petition to the Supervisor of Records.

Please send replies to cityattorney@sfcityatty.org<<mailto:cityattorney@sfcityatty.org>>

Sincerely,

Elizabeth A. Coolbrith

Paralegal

Office of City Attorney Dennis Herrera

(415) 554-4685 Direct

www.sfcityattorney.org

Find us on: Facebook<<https://www.facebook.com/sfcityattorney/>>

Twitter<<https://twitter.com/SFCityAttorney>>

Instagram<<https://www.instagram.com/sfcityattorney/>>

Exhibit B – May 17, 2019 Disclosed Record entitled “4-18-19 Email Received _Redacted.pdf”

Next page. Also available at:

https://cdn.muckrock.com/foia_files/2019/05/17/4-18-19_Email_Received_Redacted.pdf

[REDACTED]

[REDACTED]

Date: Thu, 18 Apr 2019 17:30:50 +0000
Sender: 71969-51399120@requests.muckrock.com
Message-Id: <20190418173050.1.2B43534B4544D903@requests.muckrock.com>

To: cityattorney@sfcityatty.org
From: 71969-51399120@requests.muckrock.com
Subject: California Public Records Act Request: Immediate Disclosure Request
- PRA Opinions
Mime-Version: 1.0
Content-Type: multipart/mixed; boundary="b2e1fbcebbd64db587dfc7e9a4eeaf40"
Return-Path:
bounce+5bea6f.556-cityattorney=sfcityatty.org@requests.muckrock.com

[REDACTED]

[REDACTED]

X-MS-Exchange-Organization-MessageDirectionality: Incoming

[REDACTED]

[REDACTED]

X-MS-PublicTrafficType: Email

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Exhibit C – Original April 20, 2019 Email Request

Subject: California Public Records Act Request: Immediate Disclosure Request - Email Record Full Information

San Francisco City Attorney
PRA Office
Room 234
1 Doctor Carlton B Goodlett Place
SF, CA 94102

April 20, 2019

This is an Immediate Disclosure Request under the San Francisco Sunshine Ordinance.

We request under the San Francisco Sunshine Ordinance (Ordinance) and the California Public Records Act (CPRA):

"A. an electronic copy, in the original electronic format, with all e-mail headers, metadata, attachments, appendices, exhibits, and inline images, except those explicitly exempted by the Ordinance, of:

A1. the e-mail message with Message-Id: 20190418173050.839.30844@f720c6d2-4be2-4478-af65-b9b764b16768.prvt.dyno.rt.heroku.com

A2. the e-mail message with Message-Id: <20190418173050.839.30844@f720c6d2-4be2-4478-af65-b9b764b16768.prvt.dyno.rt.heroku.com>

A3. the e-mail message with Message-Id: 20190418173050.1.2B43534B4544D903@requests.muckrock.com

A4. the e-mail message with Message-Id: <20190418173050.1.2B43534B4544D903@requests.muckrock.com>

A5. the e-mail message with Message-Id:
<DM5PR09MB1497363CAABBE6806E68810F80260@DM5PR09MB1497.namprd09.prod.outlook.com>

A6. the e-mail message with Message-Id:
DM5PR09MB1497363CAABBE6806E68810F80260@DM5PR09MB1497.namprd09.prod.outlook.com

B. an electronic copy of your internal public records policies/manuals/instructions/guidelines for the public and/or your own employees"

Message-Id's should uniquely identify a particular email on your email servers/services. These may be emails the City sent or received.

We remind you of your obligations to provide electronic records in the original format you hold them in. Therefore, e-mails exported in the .eml or .msg format with all non-exempt headers, metadata,

attachments, etc. are best.

However, if you choose to convert emails, for example, to PDF or printed format, to easily redact them, you must ensure that you have preserved the full content of the original email record (as specified in request "A"), which contains many detailed headers beyond the generally used From/To/Subject/Sent/etc. If you instead provide PDFs or printed emails with only a few of the headers or lacking attachments/images, and therefore withhold the other headers/attachments without justification, you may be in violation of SF Admin Code 67.26, 67.27, Govt Code 6253(a), 6253.9, and/or 6255, and we may challenge your decision.

Note that all of your responses (including disclosed records) may be automatically and instantly available to the public on the MuckRock.com service used to issue this request (though I am not a MuckRock representative).

Please provide only those copies of records available without any fees. If you determine certain records would require fees, please instead provide the required notice of which of those records are available and non-exempt for inspection in-person if we so choose.

I look forward to your immediate disclosure.

Sincerely,
Anonymous